

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION at LAFAYETTE

BONNIE LANHAM, GENEVIEVE WARREN, and)	
MEAGAN O'ROURKE,)	
)	
Plaintiffs,)	
)	
v.)	4:23CV38-PPS/APR
)	
JOHN DOE, INDIANA BEACH HOLDINGS LLC)	
and STORE MASTER FUNDING VIII, LLC,)	
)	
Defendants.)	

OPINION AND ORDER

The operative complaint in this case, plaintiffs' Third Amended Complaint for Damages [DE 8] filed July 22, 2022 in White County Circuit Court, names a John Doe defendant. Since the removal of the case to this court, the docket reflects no identification of John Doe nor any service of process on that defendant, although Fed.R.Civ.P. 4(m) requires service of process on a defendant within 90 days after the complaint is filed. Discovery on liability was subject to a November 1, 2023 deadline by order of Magistrate Judge John E. Martin, and the date for further amendment of pleadings by plaintiff passed on September 1, 2023. [DE 20.] Despite these deadlines, plaintiffs have given no indication that they are able to, or seek to, identify John Doe.

Plaintiffs claim sounds in negligence resulting in personal injuries, all of which occurred on or about July 3, 2021. Under Indiana law, an action for "injury to person...must be commenced within two (2) years after the cause of action accrues." I.C. §34-11-2-4. Amendment of a complaint to identify a John Doe defendant does not relate

back to the date of the original complaint. *Herrera v. Cleveland*, 8 F.4th 493, 498-99 (7th Cir. 2021). Any claim for negligence against the John Doe described in the Third Amended Complaint would appear to be untimely at this point. A district court may dismiss a claim against an unnamed defendant without prejudice. *Troya v. Wilson*, 807 Fed.Appx. 556, 560 (7th Cir. 2020). For all these reasons, plaintiffs' claim against defendant John Doe will be dismissed without prejudice.

ACCORDINGLY:

Plaintiffs' claims against defendant John Doe are DISMISSED WITHOUT PREJUDICE for all the reasons explained in this opinion and order.

SO ORDERED.

ENTERED: February 23, 2024.

/s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT